

Amend Section 112  
Title 14, California Code of Regulations  
Re: Commercial Surfperch Season Closure

Subsequent to being granted this authority to manage the commercial surfperch fishery, the Commission directed the Department to evaluate the fishery and, if needed, prepare a regulatory package which would establish new management measures for commercial surfperch in Section 112, Title 14, CCR. The proposed regulation changes will amend Section 112, Title 14, CCR, to extend the commercial surfperch season closure from May 1<sup>st</sup> through July 31<sup>st</sup> (a 16-day increase in the closed season), and also specify that surfperch may be taken and sold only from August 1<sup>st</sup> to May 10<sup>th</sup>. In addition, minor organizational and editorial changes are (also) proposed to improve the clarity and consistency of the regulations.

The Department is concerned that surfperch have undergone declines in catch, size, catch-per-unit effort (CPUE), and abundance based on fisheries dependent and independent surveys. Surfperch possess life history characteristics that make them susceptible to overfishing and vulnerable to habitat loss and degradation. Some surfperch species use nearshore areas as well as bays and estuaries to mate and give birth, with some species more at risk than others. Surfperch are live-bearers that produce an average of only 15 young each year, and may not rebound from population declines quickly. Concerns exist for the cumulative impacts of habitat loss and fishing that could lead to localized depletion of some surfperch species. Commercial surfperch fishermen fishery representatives also expressed concern to the Commission and the Department regarding the status of the redbtail surfperch stock in Northern California and some recommended extending the existing commercial seasonal closure.

The proposed regulations will offer further protection of spawning females while continuing to provide for a viable commercial fishery. Available information on spawning peak and periodicity suggests that peak spawning along the California coast occurs from April through August although peak spawning is variable depending on species, latitude, and prevailing environmental conditions. Sampled commercial catch data in July of 2000 indicated that a significant proportion (37%) of redbtail surfperch females were gravid and had not given birth. Commercial surfperch landings in July, 1984-2002, comprised an average that equaled 9.5 percent of total annual landings. A comparison between July landings with the month of highest landings, April (15.9%), suggests that surfperch may be as abundant in the nearshore areas in July. In July, however, many of the females are bearing young.

In response to concerns regarding declines in sport catches of surfperch and changes in indices of surfperch abundance, indicating declines in some surfperch stocks off California during recent decades, the Commission adopted Department proposed changes to the sport fishing regulations for surfperch. These changes included a reduction of the allowable daily bag limits, establishment of a minimum size limit for redbtail surfperch, and a seasonal closure in San Francisco and San Pablo bays. Previously, the sport fishing regulations authorized the take of up to 20 surfperch, and up to 10 of any one

species. The amended regulations reduced the take of surfperch to five in the aggregate (Section 28.59, Title 14, CCR). The sport fish surfperch regulation amendments were adopted in 2001 as a part of the Commission's biennial consideration and adoption of changes to sport fishing. Subsequent regulatory action was taken in 2002 to exempt shiner surfperch (*Cymatogaster aggregata*) from the take and possession prohibition in San Francisco and San Pablo bays.

- (b) Authority and Reference Sections from Fish and Game Code for Regulations:

Authority: Section 8395, Fish and Game Code.

Reference: Sections 8395, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None

- (d) Identification of Reports or Documents Supporting Regulation Change:

Karpov, Konstantin A., Douglas P. Albin, and Wade H. Van Buskirk, 1995, The Marine Recreational Fishery in Northern and Central California, Department of Fish and Game, Fish Bulletin 176, 192 pp.

Karpov, Konstantin, Katherine Hieb, and Patrick Collier, Suggested Interim Management Changes for Perch, Seaperch, and Surfperch - Collectively Designated as Surfperch, 3 pp.

Hieb, Katherine, Thomas Greiner, and Steven Slater. 2003. San Francisco Bay Species 2002 Status and Trends Report. Table 3, Annual abundance indices for the most common species of surfperches. Interagency Ecological Program for the San Francisco Estuary Newsletter. 16(2):14-20.

Ryan, Constance J., Mary Patyten, editors. 2003 Annual Status of the Fisheries Report, Chapter 13, Surfperches, 170 pp.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The issue of reexamining surfperch regulations was discussed at the following regularly scheduled Fish and Game Commission meetings:

Date

Location

March 7, 2002

Hubbs-Sea World Research Institute  
Shedd Auditorium  
2595 Ingraham Street  
San Diego

December 5, 2002

Monterey Beach Resort Hotel  
2600 Sand Dunes Drive and Hwy 1  
Monterey

Changes in the commercial surfperch regulations relative to daily bag limits of surfperch have been the subject of discussions with a representative of United Anglers of California, and before the Fish and Game Commission at Marine Subcommittee at the March 6, 2002 Fish and Game Subcommittee meeting in San Diego. Department proposed regulation changes were discussed in 2001 and 2002 directly with commercial surfperch fishermen in the Eureka and Bodega Bay areas, with a mixture of support by Eureka fishermen and concern by Bodega Bay fishermen.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Major Alternatives to Regulation Change:

The principal alternative is to limit the number of fishermen based upon previous participation in the fishery, and thereby, reduce the harvest of surfperch. Based on landing receipt data, the number of fishermen landing surfperch has declined 73 percent from 1992 to 2003. In 1992, 348 fishermen landed surfperch statewide compared to approximately 95 in 2002; consequently, statewide surfperch landings have declined as well. Developing a policy to limit the number of surfperch fishery participants is not needed barring substantive changes in current fishery trends.

(b) No Change Alternative:

The no change alternative does not address the Department's or the public's concern for the take of spawning surfperch.

(c) Consideration of Alternatives: In view of information currently possessed, no alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action is not expected to have a significant statewide adverse economic impact affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed closure extension of the commercial surfperch fishery may have a limited short-term impact on fishermen and fish wholesalers. The long-term (1984-2002) mean percentage of landings occurring in July is 9.5 percent representing 9,461.9 pounds. In July of 2002, a total of 41 fishermen landed 3,612 pounds of surfperch valued at \$5,235 or an average of \$128 per fisherman. The proposed closure extension will maintain a viable fishery and ensure that more surfperch would be allowed to spawn. Post spawning fish would be available to the fishery in August. In the long term, these limited short-term economic impacts may be mitigated by higher economic returns with a more abundant surfperch resource.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: None.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

## **Informative Digest (Policy Statement Overview)**

Existing regulations authorize the take of surfperch of the family Embiotocidae for commercial purposes from July 16<sup>th</sup> through April 30<sup>th</sup>, except shiner surfperch (*Cymatogaster aggregata*) which may be taken, sold, or purchased at any time. Surfperch may be sold or purchased only between July 16<sup>th</sup> and May 10<sup>th</sup> [Section 8395, Fish and Game Code (FGC)]. South of a line drawn east and west through Point Arguello, barred surfperch, redbtail surfperch, and calico surfperch may not be taken for commercial purposes (Section 8395, FGC). Surfperch of these three species that have been taken north of the line may be sold or purchased provided that each individual fish is permanently attached with a tag inscribed "California Department of Fish and Game-Surfperch" prior to shipment south of Point Arguello [Section 112, Title 14, California Code of Regulations (CCR)].

Also, the Commission was recently granted authority by the State Legislature to adopt regulations to manage the commercial surfperch fishery beginning in 2003, including authority to extend the commercial fishing closure for surfperch (Chap. 573, Stats 2002).

Surfperch include at least nineteen species of fish in the family Embiotocidae (variously termed surfperch, perch, and seaperch) that occur off California.

Proposed changes to the commercial surfperch regulations would extend the closed season for surfperch of the family Embiotocidae to July 30<sup>th</sup> and authorize sale and purchase of surfperch only between Aug 1<sup>st</sup> and May 10<sup>th</sup>. The intended purpose of the proposed regulations is to offer further protection of spawning females while continuing to provide for a viable commercial fishery. In addition, minor organizational and editorial changes are (also) proposed to improve the clarity and consistency of the regulations.

Surfperch have undergone declines in catch, size, catch-per-unit effort (CPUE), and abundance based on fisheries dependent and independent surveys. They possess life history characteristics that make them susceptible to overfishing and vulnerable to habitat loss and degradation. Some species use nearshore areas as well as bays and estuaries to mate and give birth, with some species more at risk than others. Surfperch are live-bearers that produce an average of only 15 young each year, and may not rebound from population declines quickly. Concerns exist for the cumulative impacts of habitat loss and fishing that could lead to localized depletion of some surfperch species.